

Appl. No. 09/919,748
Amtdt. dated May 28, 2003
Amendment under 37 CFR 1.116 Expedited
Procedure Examining Group

PATENT

REMARKS/ARGUMENTS

Review and reconsideration of the application are respectfully requested in view of the foregoing amendments and the following remarks.

The applicant thanks the Examiner for the telephone interview with the applicant's attorney on May 20, 2003. Discussion was had concerning the teaching of the cited Cannon et al. reference relative to the claims, as well as the §112 issues raised by the Examiner in the Office Action dated January 29, 2003.

Applicant has amended claims 5-7, 12-14, and 16-17 to address the §112 issues raised by the Examiner. Applicant believes the claims as amended overcome the §112 rejections concerning the "tension harness" noted by the Examiner in the January 29, 2003 Office Action and place the claims in form for allowance or in form for better consideration on appeal.

With respect to the substantive rejection of the claims under §103 in view of the Warner et al. and Cannon et al. references, applicant makes the following observations:

1. The Examiner states with respect to Warner et al. that "the poles being assumed a substantially arcuate shape under tension with the two terminal ends (11) being terminated into a common plane ... to define a dome-shaded interior volume" This is not a correct reading of the Warner et al. reference. Warner et al. describes that "the frame comprises a plurality of substantially semi circular arched support ribs pivoted together on a common locus" Col. 1, lines 30-32. The frame is "extremely resistant to wind and snow loading due to the hoops following a predetermined curve" Col. 1, lines 56-58. Further, "at least two sets of arched support ribs are provided and each set of hoops comprises a plurality of semi circular or curved ribs 10 pivoted on a common locus by the ends thereof as indicated by reference character 11 so that they can be collapsed one upon the other for transportation and storage The support ribs can be formed from solid or tubular stock as desired." Col. 2, lines 25-33.

In other words, the tubes used to make the frame in Warner et al. are pre-shaped in a semi circular shape and they stay in that shape, even when collapsed upon each other for transportation and storage. They are not tensioned into an arcuate shape and therefore there is no

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need or reason for a tensioning mechanism, such as a tension harness, to help maintain them in that shape.

2. The Examiner states with respect to Cannon et al. that "Cannon et al. teaches a shelter structure having a plurality of poles connected together to define a plurality of crossings (T1, T2) and a plurality of four-sided openings adjacent each other" This is not a correct reading of the Cannon et al. reference. Cannon et al. teach a shelter structure having a plurality of poles P1-P14, which stand straight up vertically and which do not cross at all. This is seen from the top in Fig. 2, and from the side in Figs. 3 and 4. It is also described at Col. 3, lines 37-46 where P1-P14 are described as "fourteen posts." Further, T1 and T2 are not crossing points. They are tie down locations where there are no vertical posts and instead vertical tie down lines 5 are used. This is shown in Fig. 2 from the top and in Fig. 5 from the side. At Col. 4, lines 1-7, the specification states: "At the intermediate points T1 and T2 it is not necessary to provide a post but desirable to provide tie-down wires 5 (FIG. 5) from the tension point to an anchor block 6 buried in the ground."

Cannon et al. does not teach to form a frame out of crossed poles, and therefore does not teach a frame in which such poles define any four sided openings having pole segments as sides or pole crossings as vertices.

3. The Examiner contends that Cannon et al. teach a shelter structure having "a plurality of tension harnesses (10) extending across the opening and connecting each non-adjacent pair of diagonal vertices (i.e., P9, P11) for providing stronger support to a flexible membrane (13) supported thereon" The Examiner's reading of the Cannon et al. reference is incorrect in this regard. The reference 10 is to a plurality of guy wires that extend between the tops of poles P1-P14. Col. 3, lines 54-56. This is seen in Fig. 2. Since there are no pole crossings, there are no non-adjacent diagonal vertices corresponding to pole crossings, as claimed, and the guy wires do not extend between any such non-adjacent diagonal vertices. There is also no teaching in Cannon et al. that the guy wires 10 provide stronger support to a flexible membrane. To the contrary, the totality of the teaching concerning the guy wires 10 is found at Col. 3, lines 54-56 and states: "The posts are further located by diagonal guy wires 10,

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which also serve to locate the centre posts P13 and P14." In other words, the guy wires simply maintain the location of the posts relative to each other. There is nothing to indicate that the guy wires 10 are intended to or impart any strength to a flexible membrane. Indeed, the only teaching in Warner concerning any portion of the structure imparting such strength to the membrane is with respect to the vertical tie-downs T1 and T2. At Col. 4, lines 5-7, the specification teaches that "The tie-down wires 5 serve to restrain the canopy in windy situations and prevent upward bowing or ballooning." Applicant believes that in reading the Cannon et al. reference, the Examiner erroneously believed the double crossing lines shown in Fig. 2 are crossing poles. In fact, although not specifically identified in Fig. 2, it is clear from the specification that these are "tendons" that are sewn into the edges of cloth panels that make up the canopy cover, and not poles.

CONCLUSION

Applicant respectfully submits that upon a correct reading of the cited references, neither reference alone or in combination discloses or suggests the unique combination of elements recited in the pending claims. Indeed, it is abundantly clear that neither reference even relates to structures of the type claimed, which are made of tensioned poles arranged in a crossing configuration. Thus, the cited references clearly do not support the §103 rejection of the pending claims.

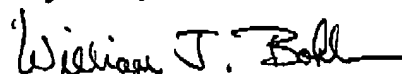
With the amendments to resolve the Examiner's §112 issues, applicant respectfully submits the pending claims recite patentable subject matter and are in proper form for allowance. Applicant therefore requests an early notice to that effect.

If the Examiner believes a further telephone discussion would expedite conclusion of the prosecution, the Examiner is invited to contact the undersigned attorney for applicant at the Examiner's convenience. In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is urged.

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Respectfully submitted,



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